



Privacy Act of 1974; System of Records

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, the Federal Mine Safety and Health Review Commission (FMSHRC) is issuing a notice of a new Privacy Act system of records FMSHRC-09.

DATES: This new system of records is effective upon publication; however, comments on the Routine Uses will be accepted on or BEFORE [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] The Routine Uses are effective at the close of the comment period.

ADDRESSES: You may submit comments by any of the following methods:

- *Email:* PrivacyAct@fmshrc.gov . Include “PRIVACY ACT SYSTEM OF RECORDS” in the subject line of the message.
- *Fax:* (202) 434-9916.
- *Mail:* Privacy Act Coordinator, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710.
- *Hand Delivery/Courier:* same as mailing address.

Instructions: All submissions must include your name, return address, and email address, if applicable. Please clearly label submissions as “PRIVACY ACT SYSTEM OF RECORDS.”

FOR FURTHER INFORMATION CONTACT: Michael Chirico, Governmental Liaison and Policy Advisor, Office of the Chair, via telephone at (202) 434-9909 or via email at mchirico@fmshrc.gov .

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, 5 U.S.C. 552a(e)(4), requires federal agencies such as FMSHRC to publish in the **Federal Register** notice of any new or modified system of records. As detailed below, FMSHRC is issuing FMSHRC-09 to create a new system of records for reasonable accommodation requests by agency applicants and employees who request a reasonable accommodation for a medical reason or a sincerely held religious belief, and for employees who request a reasonable accommodation for protected leave to care for family, or protected leave for military service.

The notice for FMSHRC-09, provided below in its entirety, is as follows.

SYSTEM NAME AND NUMBER:

Workplace Requests and Reasonable Accommodation Records, FMSHRC-09.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of the Chair, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710.

SYSTEM MANAGER:

Reasonable Accommodation Coordinator, Office of the Chair, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

30 U.S.C. 823; 44 U.S.C. 3101 et seq.; the Rehabilitation Act of 1973, 29 U.S.C. 701 et seq.; Americans with Disabilities Act (“ADA”), as amended by the ADA Amendments Act of 2008, 42 U.S.C. 12101 et seq.; Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e et seq.; the Family and Medical Leave Act of 1993, 29 U.S.C. 2601 et seq.; the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 et seq.; 29 CFR part 1630; and E.O. 13164 as amended by E.O. 13478.

PURPOSE(S) OF THE SYSTEM:

This system is maintained for the purpose of considering, deciding and implementing requests for reasonable accommodation made by Commission employees and applicants, and to preserve and maintain confidentiality of the individuals making the request.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Commission employees and applicants who have requested reasonable accommodations for a medical reason, a sincerely held religious belief, or for protected leave.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applicant or employee requests for reasonable accommodations; medical information; religious information; military service orders or records; notes or records made during consideration of requests; decisions on requests; and records made to implement or track decisions on requests.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from the individual to whom it applies, and is derived from information supplied by that individual such as a doctor's statement, medical information, or military service orders or records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

1. To an agency, organization, or individual for audit or oversight operations as authorized by law, but only such information as is necessary and relevant to such audit or oversight function when necessary to accomplish an agency function related to the system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to Commission officers and employees.
2. To appropriate agencies, entities, and persons when: (a) FMSHRC suspects or has confirmed that there has been a breach of the system of records; (b) FMSHRC has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, FMSHRC, the Federal Government, or national security; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with FMSHRC's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

3. To another federal agency or federal entity, when FMSHRC determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (a) responding to a suspected or confirmed breach or (b) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

4. To an appropriate federal, state, local, foreign, or tribal or other public authority if the information is relevant and necessary to a requesting agency's decision concerning the hiring or retention of an individual, or issuance of a security clearance, background investigation, contract, or other benefit, or if the information is relevant and necessary to a Commission decision concerning the retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the vetting of a contract, or the issuance of another benefit and when disclosure is appropriate to the proper performance of the official duties of the person making the request.

5. To a Member of Congress or staff on behalf of and at the request of the individual who is the subject of the record.

6. To contractors, experts, consultants, the agents thereof, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Commission, when necessary to accomplish an agency function related to the system of records. Individuals provided information under this routine use are subject to the same Privacy Act requirements and limitations on disclosure as are applicable to Commission officers and employees.

7. To an appropriate federal, state, tribal, local, or foreign agency or other appropriate authority charged with investigating or prosecuting a violation or enforcing or implementing a law, rule, regulation, or order, where a record, either on its face or in conjunction with other information, indicates a violation or potential violation of law, which includes criminal, civil, or regulatory violations and such disclosure is proper and consistent with the official duties of the person making the disclosure.

8. To the Department of Justice, the Commission's outside counsel, other federal agencies conducting litigation, or in proceedings before any court, adjudicative or administrative body, when (a) the Commission, or (b) any employee of the Commission in his or her official capacity, or (c) any employee of the Commission in his or her individual capacity where the Department of Justice or the Commission has agreed to represent the employee, or (d) the United States or any agency thereof, is a party to the litigation or has an interest in such litigation, and the Commission determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which the Commission collected the records.

9. To the National Archives and Records Administration (NARA) for records management purposes; to the Government Accountability Office for oversight purposes; to the Department of Justice to obtain that department's advice regarding disclosure obligations under the *Freedom of Information Act* (FOIA); to NARA's Office of Government Information Services (OGIS) for record inspection purposes and to facilitate OGIS' offering of mediation services to resolve disputes between persons making FOIA requests and administrative agencies; or to the Office of Management and Budget to obtain that office's advice regarding obligations under the Privacy Act.

10. In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Commission determines that the records may be relevant and necessary to the proceeding or in an appropriate proceeding before another administrative or adjudicative body when the adjudicator determines the records to be relevant and necessary to the proceeding.

11. To respond to subpoenas, specifically approved by a court, in any litigation or other proceeding, and the Commission determines that the records are both relevant and necessary to the litigation and the use of such records is compatible with the purpose for which the Commission collected the records.

12. To a federal, state, tribal, local, or foreign government agency or entity for the purpose of consulting with that agency or entity: (a) to assist in making a determination regarding redress for an individual in connection with the operations of a Commission program; (b) for the purpose of verifying the identity of an individual seeking redress in connection with the operations of a Commission program; or (c) for the purpose of verifying the accuracy of information submitted by an individual who has requested such redress on behalf of another individual.

13. To such recipients and under such circumstances and procedures as are mandated by federal statute.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records in this system are stored in paper format and electronically on a secured network drive with limited personnel access.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Records in this system can be retrieved by name.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Retention and disposal of records is in accordance with National Archives and Records Administration's General Records Schedule.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Access is limited to authorized individuals with passwords, cipher lock combinations, or keys. Electronic files are maintained on a secured network drive with limited user access. Access to the Commission's office in Washington, DC may be gained only by using an electronic programmed Kastle Card, which is provided only to Commission personnel and is changed on a regular basis.

Paper records, which may exist for records of previous employees prior to electronic files, are stored in a locked file cabinet in a locked file room with access only by Commission personnel responsible for maintenance of those records. The building where the records are stored has security cameras and security guard service. The records are kept in limited access areas during duty hours and in locked file cabinets and/or locked offices or file rooms at all other times.

Access is limited to those personnel whose official duties require access.

RECORD ACCESS PROCEDURES:

Individuals who wish to gain access to their records should notify: Privacy Officer, FMSHRC,

1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on how such requests should be drafted, refer to the Commission's regulations contained in 29 CFR part 2705.

CONTESTING RECORD PROCEDURES:

Individuals who wish to contest their records should notify: Privacy Officer, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on the specific procedures for contesting the contents of a record, refer to the Commission's regulations contained in 29 CFR part 2705.

NOTIFICATION PROCEDURE:

Individuals who wish to inquire about their records should notify: Privacy Officer, FMSHRC, 1331 Pennsylvania Avenue, NW, Suite 520N, Washington, DC 20004-1710. For an explanation on the specific procedures for contesting the contents of a record, refer to the Commission's regulations contained in 29 CFR part 2705.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

HISTORY:

None.

Dated: November 17, 2021.

Sarah L. Stewart,

Deputy General Counsel,

Federal Mine Safety and Health Review Commission.

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